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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,577	11/05/2001	Brian R. Beams	05222.00177	4237

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EXAMINER

TRAN, PHILIP B

ART UNIT PAPER NUMBER

2155

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,577

Applicant(s)

BEAMS ET AL.

Examiner

Philip B Tran

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because an abstract is not on a separate sheet as required by 37 CFR 1.72(b). Correction is required. See MPEP § 608.01(b).

Double Patenting

2. U.S.C. 101, Statutory Basis for Double Patenting.

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. **See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).**

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-19 are rejected under 35 U.S.C. 101 because they are identical as cited corresponding claims 1-19 of the U.S. Pat. No. 6,611,822.

Claims 1-19 of this instant application (Application No. 10/009,577) conflict with claims 1-19 of U.S. Pat. No. 6,611,822. **37 CFR 1.78(b)** provides that when two or

more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application.

Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. **See MPEP § 822.**

Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-19 are rejected under 35 U.S.C. § 102(b) as being anticipated by Cook et al (Hereafter, Cook), U.S. Pat. No. 5,727,950.

Regarding claim 1, Cook teaches a method for establishing a collaborative training session, comprising the steps of establishing a network connection between a plurality of users, selecting a mode for the network connection between the plurality of users, establishing the network connection mode between the plurality of users, and synchronizing the mode between the plurality of users (= interactive agent based instruction that establishes interconnected communication among a plurality of students for providing materials to geographically distributed students from servers) [see Abstract, Figs. 1-2, Col. 10, Line 43 to Col. 12, Line 34 and Col. 45, Line 10 to Col. 47, Line 6].

Regarding claim 2, Cook further teaches a method for establishing a collaborative training session as recited in claim 1, wherein the mode is a specific application that is shared between the plurality of users [see Col. 6, Lines 6-49].

Regarding claims 3-5, Cook further teaches a method for establishing a collaborative training session as recited in claim 1, wherein the mode is a whiteboard application that is shared between the plurality of users, wherein the mode is a chat room that is shared between the plurality of users and wherein the mode is a video conference for the plurality of users [see Fig. 3, Col. 6, Lines 6-49, Col. 23, Line 20 to Col. 26, Line 34 and Col. 45, Line 10 to Col. 47, Line 6].

Regarding claim 6, Cook further teaches a method for establishing a collaborative training session as recited in claim 1, wherein the mode includes media sharing between the plurality of users [see Col. 13, Line 29 to Col. 14, Line 30].

Regarding claim 7, Cook further teaches a method for establishing a collaborative training session as recited in claim 1, wherein the mode includes interactive browsing between the plurality of users [see Col. 37, Lines 25-51].

Regarding claims 8-9, Cook further teaches a method for establishing a collaborative training session as recited in claim 1, wherein the mode includes

newsgroup sharing between the plurality of users and wherein the mode includes discussion group sharing between the plurality of users [see Col. 45, Line 10 to Col. 47, Line 29].

Claims 10-11 are rejected under the same rationale set forth above to claim 1.

Claims 12-19 are rejected under the same rationale set forth above to claims 2-9, respectively.

Other References Cited

6. The following references cited by the examiner but not relied upon are considered pertinent to applicant's disclosure.

- A) Hubbel et al, U.S. Pat. No. 6,125,358.
- B) Kamei, U.S. Pat. No. 5,768,514.
- C) Abrahamson et al, U.S. Pat. No. 5,002,491.
- D) Harper et al, U.S. Pat. No. 5,537,141.
- E) Lubin et al, U.S. Pat. No. 5,395,243.
- F) Shiio et al, U.S. Pat. No. 5,491,743.
- G) Kitahara et al, U.S. Pat. No. 5,745,711.
- H) Rosen, U.S. Pat. No. 5,772,446.

7. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THREE MONTHS, OR THIRTY DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. FAILURE TO RESPOND

WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO
BECOME ABANDONED (35 U.S.C. § 133). EXTENSIONS OF TIME MAY BE
OBTAINED UNDER THE PROVISIONS OF 37 CAR 1.136(A).

8. Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Philip Tran whose telephone number is (571) 272-3991.
The Group fax phone number is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Hosain T. Alam, can be reached on (571) 272-3978.

Any inquiry of a general nature or relating to the status of this application should
be directed to the Group receptionist whose telephone number is (703) 305-3900.

Philip Tran
Philip B. Tran
Art Unit 2155
Jan 27, 2005